

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

IN THE MATTER OF:

This matter comes to be heard, *sua sponte*, on my motion to dismiss for want of prosecution. On March 17, 2010, the Law Firm of Favaro & Gorman, Ltd. appeared on its filed Motion to Withdraw as Complainant's representative. Complainant and Respondent were properly served with its motion, but both failed to appear. An Order was entered continuing the motion to withdraw and ordering Complainant and/or his retained attorney, as well as Respondent's attorney, to appear on April 21, 2010, for a status hearing. The Law Firm of Favaro & Gorman, Ltd. served the Complainant and Respondent with the March 17, 2010, Order. A Proof of Service was filed on March 29, 2010. On April 21, 2010, both Complainant and Respondent failed to appear at a status hearing as ordered. The motion to withdraw was granted. On April 23, 2010, an order was mailed to Complainant setting a status hearing for May 19, 2010. That Order requested that he report to the Commission whether he still intended to proceed with his case, and warned that failure to attend the hearing could result in his case

being dismissed. The April 23, 2010, the Order was also served on the Respondent with a similar warning if it failed to appear. On May 19, 2010, neither party appeared for the set status hearing.

The Department is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is named herein as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. The Complaint in this matter was served upon Complainant's attorneys by certified mail. Complainant's attorneys signed on behalf of Complainant on January 15, 2010.

2. The initial status date in this matter was April 7, 2010. On March 17, 2010, Favaro & Gorman, Ltd. appeared to argue its filed and served a motion to withdraw as Complainant's representative. Complainant and Respondent failed to appear. An order was entered continuing the motion to withdraw and schedule a hearing for April 21, 2010. Complainant and Respondent were served with the March 17, 2010, Order.

3. On April 21, 2010, the motion to withdraw was granted at the scheduled hearing. Complainant and Respondent failed to appear. On April 23, 2010, an order was mailed to Complainant setting a status hearing for May 19, 2010. The Order requested that Complainant report to the Commission whether he still intended to proceed with his case, and warned that failure to attend the hearing could result in his case being dismissed. The April 23, 2010, Order was also served on the Respondent with a similar warning.

4. On May 19, 2010, neither party appeared for the set status hearing.

CONCLUSIONS OF LAW

1. Complainant's failure to participate at three scheduled hearings set for March 17, 2010, April 21, 2010 and May 19, 2010, and his failure to respond to orders entered have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of his claim, the complaint in

this matter should be dismissed with prejudice.

DISCUSSION

Complainant, through his attorneys, was served with the Complaint in this matter on January 15, 2010. He was given notice of the first hearing date and subsequent status hearing dates. After failing to participate in two hearings, Complainant was ordered to either dismiss his case or explain his absence by May 19, 2010. He has failed to comply with the order. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice. See e.g., Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992.

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned his claim. Accordingly, it is recommended that the Complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
WILLIAM J. BORAH
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: May 19, 2010